

# **EXHIBIT A**

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15 Audio Communications, Inc., Club Jenna, Inc. Cyber Trend, Inc.,  
16 Cybernet Ventures, Inc., Game Link, Inc., Global AVS, Inc.,  
17 Innovative Ideas International, Lightspeed Media Group, Inc., National A-1  
18 Advertising, Inc., New Destiny Internet Group, LLC, VS Media, Inc.

19 UNITED STATES DISTRICT COURT

20 CENTRAL DISTRICT OF CALIFORNIA

21 SOUTHERN DIVISION

22 ACACIA MEDIA TECHNOLOGIES | Case No. SA CV 02-1040 JW (MLGx)  
23 CORPORATION,  
24 Plaintiff,

25 v.  
26 NEW DESTINY INTERNET  
27 GROUP, et al.,  
28 Defendants.

**Consolidated Cases:**

SA CV 02-1165-JW (MLGx)  
SA CV 03-0218-JW (MLGx)  
SA CV 02-1048-JW (MLGx)  
SA CV 03-0219-JW (MLGx)  
SA CV 03-0308-JW (MLGx)  
SA CV 03-0271-JW (MLGx)  
SA CV 03-0259-JW (MLGx)  
SA CV 02-1063-JW (MLGx)

**Related Cases:**

SA CV 03-1801 JW (MLGx)  
SA CV 03-1803 JW (MLGx)  
SA CV 03-1804 JW (MLGx)  
SA CV 03-1807 JW (MLGx)

**DECLARATION OF TODD G.  
MILLER IN SUPPORT OF  
DEFENDANTS' RESPONSIVE  
CLAIM CONSTRUCTION BRIEF  
REGARDING UNITED STATES  
PATENT NO. 6,144,702**

Date: May 18-20, 2004  
Time: 9:30 a.m.  
Ctrm: 9C

29 AND REFERENCED  
30 CONSOLIDATED AND RELATED  
31 CASES

I, Todd G. Miller, do hereby declare and state as follows:

1. I am a partner in the law firm of Fish & Richardson P.C., counsel of record for Defendants' and Counterclaimants' AEBN, Inc.; Ademia Multimedia, LLC; Audio Communications, Inc.; Club Jenna, Inc.; Cyber Trend, Inc.; Cybernet Ventures, Inc.; Game Link, Inc.; Global AVS, Inc.; Innovative Ideas International; Lightspeed Media Group, Inc.; National A-1 Advertising, Inc.; New Destiny Internet Group, LLC; and VS Media, Inc. ("Defendants") in the above-entitled matter.

2. I make this Declaration in Support of Defendants' Claim Construction Brief Regarding United States Patent No. 6,144,702. I make this Declaration of my own knowledge, and could and would competently testify as to the matters set forth herein if called upon to do so.

3. Attached to this Declaration as **Exhibit OO** is a true and correct copy of the prosecution history of European Patent No. EP0566662 B1.

4. Attached to this Declaration as **Exhibit PP** is a true and correct copy of excerpts from the claim construction of the '702 patent proposed by Acacia during discovery.

I declare under penalty of perjury that the foregoing is true and correct.  
Executed this 13<sup>th</sup> day of May, 2004.

By: \_\_\_\_\_ /s/  
Todd G. Miller

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing DECLARATION OF TODD G. MILLER IN SUPPORT OF DEFENDANTS' RESPONSIVE CLAIM CONSTRUCTION BRIEF REGARDING UNITED STATES PATENT NO. 6,144,702 was served on this date upon all counsel of record as follows:

*Via United States District Court, Central District of California,  
Electronic Case Filing Program, by uploading the electronic files  
for the above listed document:*

Roderick G. Dorman  
Alan P. Block  
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Executed at San Diego, California this 13th day of May, 2004.

/s/

10395401.doc

# **EXHIBIT PP**

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11  
12  
13 UNITED STATES DISTRICT COURT  
14 CENTRAL DISTRICT OF CALIFORNIA  
15 SOUTHERN DIVISION

16 ACACIA MEDIA TECHNOLOGIES CORPORATION, } Case No. SA CV 02-1040 AHS(MLGx)  
17 v. Plaintiff, } ACACIA MEDIA TECHNOLOGIES  
18 NEW DESTINY INTERNET GROUP, LLC } CORPORATION'S RESPONSES TO  
19 Defendant. } NEW DESTINY INTERNET GROUP,  
20 And Related Counterclaims } LLC'S FIRST SET OF  
21 INTERROGATORIES

22 Propounding Party: Defendant New Destiny Internet Group, LLC

23 Responding Party: Plaintiff Acacia Media Technologies Corporation

24 Set No.: One

25 317844v1

26 SA CV 02-1040 AHS(MLGx)

27 ACACIA'S RESPONSES TO NEW DESTINY'S FIRST SET OF INTERROGATORIES

Acacia's Response to New Destiny's Interrogatory No. 1

<u>'702 Patent -- Claim Limitations</u>	<u>Acacia's Construction of Claim Limitation</u>	<u>Basis for Infringement by New Destiny</u>
	<p>The phrase "data communication" is used in its ordinary and accustomed manner consistent with the common understanding of one of ordinary skill in the art. Data communication means the movement of information by means of communication techniques or a data transfer between data source and data destination via one or more data links and also means the transmission of the representation of information from one point to another.</p> <p>The phrases "first location" and "second location" are given special meanings. These terms are used together in claim 1 to define first and second locations that are not absolute, but rather are simply relative to one another. The patent specification does not in any way limit the claimed transmission system and receiving system to any one particular location. Rather, the specification describes systems that may be located anywhere and in one or more facilities, so long as the transmission system and the receiving system are not at the same location. Therefore, the term "first location" means anywhere other than the second location and the term "second location" means anywhere other than the first location.</p>	<p>transmission system is located.</p>
	<p>a sequence encoder,</p>	<p>Acacia is not presently aware of whether New Destiny obtains its encoded video content from a content provider acting on New Destiny's behalf or whether New Destiny encodes its own video content. Acacia has not yet received discovery responses from New Destiny and Acacia expects to learn this information from New Destiny upon receipt of discovery responses from New Destiny.</p> <p>Regardless of whether New Destiny itself performs the encoding of its content or whether New Destiny obtains its encoded video content from a content provider acting on New Destiny's behalf,</p>
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Acacia's Response to Interrogatory No. 1 is based on the information presently available to Acacia. Acacia reserves the right to supplement or amend its response upon the receipt of relevant discovery responses from defendant New Destiny and others.

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Acacia's Response to New Destiny's Interrogatory No.1

'702 Patent -- Claim Limitations	Acacia's Construction of Claim Limitation	Basis for Infringement by New Destiny
accordance with some rule.	this limitation is met.	<p>For Windows Media encoder with an input format of an AVI file, the video input to the video encoder will be comprised of identifiable video frames identifiable audio samples. The encoder will organize the frames of the video program into sequences of frames and organize the samples of audio into sequences of samples before compression. These frames are addressable by relative time or presentation time (for instance, a video program may have a frame rate of 30 frames per second, meaning that each frame has a duration of 1/30 of a second).</p> <p>Microsoft documentation describes the ordering means in the Windows Media encoder. The Microsoft Version 7.1 SDK in the Programming Guide section under the heading Media Input and Output Formats states:</p> <p style="padding-left: 40px;">"Media samples are the basic segments of media that the SDK uses to input and output media. A media sample represents a small segment of audio, or a video frame, or a script command. Media samples are associated with either a stream (which is the raw data that goes into the Windows Media file), or an input or output (which is uncompressed data ready for rendering).... For video data, a media sample represents a video frame. For an input (or output), the video frame is a fixed-size uncompressed video frame, whose properties can be retrieved from the reader or writer. For an output, the video frame is variable-sized, and its properties are stored in the profile associated with the reader or writer.. . . Regardless of their type, media samples have several characteristics in common. Media sample data is stored in INSSBuffers, so media samples can be used more efficiently among objects, without requiring processor-intensive copying of data. Buffers can be handled the SDK implemented INSSBuffer, or the application can implement its own system. Media samples also have other information associated with them, such as stream number, input/output</p>

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Acacia's Response to Interrogatory No. 1 is based on the information presently available to Acacia. Acacia reserves the right to supplement or amend its response upon the receipt of relevant discovery responses from defendant New Destiny and others.

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